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COMMITTEE ON THE RIGHTS OF THE CHILD

Tenth session

SUMMARY RECORD OF THE 248th MEETING

Held at the Palais des Nations, Geneva,
on Wednesday, 9 November 1995, at 3 p.m.

Chairperson: Mrs. BELEMBAOGO

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SENEGAL (continued)

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The meeting was called to order at 3.10 p.m.

CONSIDERATION OF REPORTS OF STATES PARTIES (agenda item 4) (continued)

Senegal (continued) (CRC/C/3/Add.31; CRC/C.10/WP.1)

1. At the invitation of the Chairperson, Mrs. Mbenque and Mrs. Ngom (Senegal) took places at the Committee table.

2. The CHAIRPERSON said that, in the course of the discussion on the first section of the list of issues (CRC/C.10/WP.1) entitled "General measures of implementation", the members of the Committee had noted the many positive measures taken by the Government, particularly with regard to the dissemination of information on the Convention to both adults and children. They had been encouraged to learn that Senegal had ratified the Convention without reservation and that, in the courts, it took precedence over internal law. They had welcomed the role played by local authorities and by mayors, in particular, in promoting the rights of the child and had also welcomed the measure setting the call-up age at 18 rather than 15 years of age, the plans to introduce the subject of the Convention into the curriculum of schools and the steps taken to mitigate the negative effects of Senegal's structural adjustment programme.

3. However, the members of the Committee had expressed concern about the negative impact of certain cultural practices on the lives of children in Senegal and about the economic difficulties which prevented the Government from implementing programmes for them. They had made a number of suggestions for the strengthening of institutions responsible for children's affairs and had encouraged the Government to speed up the implementation of suggestions and recommendations made in the comparative study on how far national legislation was in conformity with the provisions of the Convention. They had also urged mediators to play a more active role in promoting the rights of the child.

4. She invited the Committee to take up the sections of the list of issues entitled "Definition of the child" and "General principles", which read:

"Definition of the child
(Art. 1 of the Convention)

12. Please provide information on the minimum age for legal and medical counselling without parental consent, the minimum age for marriage, the minimum age for access to employment and the age of completion of compulsory education.

General principles
(Arts. 2, 3, 6 and 12 of the Convention)

13. Please indicate to what extent the provisions of article 2 of the Convention, with regard to all possible grounds for discrimination covered by this article, are covered in national legislation.

14. What efforts have been made to collect disaggregated data on the basis of age, gender, ethnic or social origin, rural and urban groups in relation to the situation of children?

15. Please provide information on the steps taken to prevent and eliminate discriminatory attitudes or prejudices and to ensure an effective protection against discrimination, including towards girls, children born out of wedlock, children in rural areas and poor children.

16. Please provide further information on the measures taken to ensure the enrolment of girls in schools and to improve the rate of their school attendance. Please indicate the efforts made to protect the girl child against the harmful effects of traditional practices or customs.

17. Please indicate in what way the best interests of the child, as recognized by article 3 of the Convention, are taken into consideration in legislation and in other actions undertaken by public or private social welfare institutions, courts of law or administrative authorities.

18. Please provide information on the ways in which the respect for the views of the child is reflected in legislation and is taken into account in judicial and administrative proceedings concerning the child, including in the case of the change in the name of a child within the framework of an adoption procedure (as referred to in para. 76 of the report).

19. Please indicate the concrete measures which have been taken to sensitize public opinion and professional groups to the need to encourage children's participatory rights in school and social life.

20. Please indicate how the views of the child are taken into account within the framework of family life."

5. Mrs. SANTOS PAIS said she was concerned to note that access to medical consultation without parental authorization was not authorized until the age of 21.

6. She was also concerned that the minimum age for marriage was set at 20 for boys, but at 16 for girls, first because that was contrary to the principle of non-discrimination embodied in article 2 of the Convention and, secondly, because the report admitted that over-early marriage was a continuing problem in Senegalese life. It could help to deter that practice if the law were to send out a clear message discouraging early marriage by girls.

7. She had also noted that the age of civil majority was attained at 21, while criminal majority was attained at 18. Consideration should be given to remedying that disparity. The report contained certain contradictions on the matter of criminal responsibility: thus, paragraph 181 stated that, in certain circumstances, the court could convict a juvenile of 13 years of age. That seemed to her to contravene article 40, paragraph 3, of the Convention, which required States to promote the establishment of a minimum age below

which children could be presumed not to have the capacity to violate criminal law. There was also a disparity between the age at which compulsory schooling ended and the minimum age for access to employment. Again, remedying that disparity would allow children the opportunity to develop and, at the same time, help to prevent abuse and exploitation.

8. The Constitution of Senegal listed certain criteria which could not be used as a basis for discrimination, although that list did not include all the criteria mentioned in article 2 of the Convention. If cases were not brought before the courts, how was that constitutional provision to be applied in practice?

9. The situation of the girl child in Senegal was a matter of great concern to the Committee, not only in respect of premature marriage, but also with regard to female circumcision. She noted that Senegal's Penal Code contained no provision defining female circumcision as a crime, as was the case in other African countries. Criminalization of the practice might send out a message which could help to change attitudes, particularly in rural areas, and could encourage more action, particularly by religious leaders, to put an end to it.

10. Lastly, she was encouraged to note that measures were being prepared to protect children born out of wedlock, in particular as far as their name was concerned. In some countries, names were used as a way of stigmatizing illegitimate children.

11. Mr. HAMMARBERG said there was clearly discrimination against girls in Senegal in the matter of marriageable age. It was argued by some countries that a low marriage age for girls was an advantage because it would legitimize the relationship in case of pregnancy, but, in the Committee's view, that was not a very strong argument when set against the negative consequences in later life.

12. The report did not give much indication of any political will on the part of Senegal to achieve equal status for girls. The laws on inheritance and on the authority of the husband in marriage seemed to indicate that the value of a girl was less than that of a boy. The figures for school dropouts also showed that, where girls were concerned, there was a significant problem which could affect their status in society. How did Senegal interpret the concept of the best interests of the child contained in article 3 of the Convention and how did it integrate that concept into its legislation and political programmes?

13. Mrs. BADRAN noted that the Government had launched a campaign to make parents aware of the need to send their children to school. If primary education was compulsory, as suggested in paragraph 124 of the report, what mechanism was used to enforce attendance? Paragraph 14 stated that the judge was entitled to overrule decisions on divorce in the best interests of the child. She feared that it might in fact be harmful to a child if its parents came to resent it as an obstacle to their separation.

14. Mr. KOLOSOV asked how the right to life, survival and development, provided for in article 6 of the Convention, was guaranteed with regard

to street children and handicapped children. He had noted that there were some 40,000 handicapped children below the age of 14 in Senegal, of whom only some 600 were being cared for in institutions.

15. Mrs. KARP said she understood that, under Senegalese law, a child acquired Senegalese nationality if born to Senegalese parents in Senegal. How did a child acquire nationality when the nationality of its parents could not be established?

16. Mrs. NGOM (Senegal) said it had been suggested that there was discrimination in Senegal because the marriageable age for girls was lower than that for boys. However, all laws had to conform in some degree with socio-cultural traditions and, in Senegal, girls developed earlier than boys and were thus ready for marriage at a younger age. It was true that, in the past, before the introduction of the Family Code, it had been the custom for girls to marry at 13 or even at 9 years of age: that situation had now been regularized by setting the age at 16. It had been suggested that such an age-limit might tend to encourage premature marriage, but she pointed out that any consummation of a premature marriage was punishable under the Penal Code. She was confident that the campaigns being waged in Senegal to make the Convention more widely known would eventually result in the minimum age for marriage for girls being raised to 18 years. Those campaigns were aimed not only at the general public, but at all those concerned with guaranteeing the rights of the child, for instance judges, health workers and social workers. That showed a clear willingness on the part of the authorities to remedy the situation.

17. On the question of the disparity between the age of civil majority and the age of criminal majority, she assured the Committee that there were a number of provisions in the Penal Code specifically designed to protect the rights of the child, particularly children in moral danger or in conflict with the law. The rule was that children under 13 years of age could not be deemed to have committed a criminal offence and exceptions to that rule were very rare. The emphasis was, rather, on education and on reintegration into society. Under the Code of Criminal Procedure, provision was made for the protection of minors being cared for in institutions up to 21 or even 25 years of age.

18. On the matter of compulsory schooling, it was true that, under the Constitution, the Government was obliged to provide education for all children up to 12 years of age. However, Senegal, as a developing country, was unfortunately not yet in a position to provide sufficient teachers for all school-age children.

19. Although the practice of female circumcision was not specifically defined as a crime in Senegalese law, any action constituting ill-treatment or violation of the physical integrity of a child was severely penalized. There was also a legal obligation to report such practices, but it was not always complied with. She hoped that information campaigns would gradually change behaviour in that respect. A set of regulations was currently being developed to ensure that natural children had the same rights as legitimate children, particularly where inheritance and the right to a name were concerned. The

fact that the Convention now had the force of law in Senegal and that the child could thus invoke it before the courts was an important advance.

20. Lastly, under the Nationality Code, the principle of jus soli and the principle of jus sanguinis were both applicable. That meant that any child born in Senegal whose parentage was not known was considered to be Senegalese until proved otherwise. Mechanisms were also in place to enable children to apply for naturalization. On the matter of the best interests of the child, the law provided for adoption or taking into care in cases where parents failed in their duty of care towards their children. In cases of divorce, custody would be awarded to the parent considered most likely to serve the child's best interests or, if necessary, to a third party.

21. Mrs. MBENGUE (Senegal) said that religious leaders in Senegal played a very important role, not only in helping to make the Convention more widely known, but also in disseminating information about Government programmes. The Convention had also been translated into Arabic to ensure that it reached a wide public.

22. In reply to the question on the rights of street children, a number of non-governmental organizations in Senegal had set up programmes to assist such children, for instance by establishing workshops where they could learn a trade. Most children on the streets of Dakar in fact lived with their parents, who sent them out to beg for economic reasons. Begging was not encouraged, but it was difficult to ban it completely when the Government did not have the means to meet the most basic needs of many of its citizens. The international donor community should assist Senegal by programmes which, in the long term, would enable it to abolish a practice which was an affront to human dignity and was not in conformity either with the Convention or with Senegalese law.

23. Special programmes were carried out by the Ministry of Health and Social Action for handicapped persons. Many non-governmental organizations specialized in that area and the Red Cross also helped to meet the needs of disabled persons.

24. Mrs. SANTOS PAIS, referring to the question of the minimum age for marriage, said she understood that the law tried to reflect reality, but it also had the capacity to anticipate what might happen in the future and give a message that encouraged change. The fact that there were different minimum ages for marriage for girls and boys was contrary to article 2 of the Convention and not in line with the commitments entered into by Senegal in Cairo and elsewhere.

25. With regard to the development of girls, it was often their physical development that was taken into account, not their spiritual and psychological maturity. In many countries, there were girls who were mothers, but who were only children. What did society expect from those girls and what tools were provided to enable them to prepare to become members of society?

26. A balance must be found between protection and responsibility, particularly with regard to the minimum age for criminal majority. She was concerned that children's judges were given the possibility of considering

that a child could be criminally responsible on the basis of his personality. However, if there was a minimum age below which the law recognized that no child could infringe the criminal law, then there would be no possibility for differences of interpretation.

27. Religious chiefs had a decisive role to play in combating excision, not only because they worked together with the authorities, but also because, in daily life, they were active social agents and it was their example which had made it possible to bring about a change.

28. Miss MASON said that, under Senegalese legislation, it would appear that a child aged 14 was free to become a member of a trade union. She would like to know whether similar possibilities existed for admission to membership in political parties and other associations. She also wished to know how Senegal reconciled the fact that it was possible to become a legal member of a union and to be employed when a person could not enter into a contract until he had reached the age of 18.

29. In the light of the societal and cultural attitudes that existed in Senegal and Senegal's obligation to implement the provisions of the Convention, she would like to know which provisions of the Convention were the most difficult for Senegalese society, including children, to accept.

30. Mrs. BADRAN asked whether a Senegalese woman who married a foreigner would lose her nationality.

31. Mr. HAMMARBERG, referring to the delegation's statement that Senegal had undertaken an obligation to provide education for everyone from 6 to 12 years of age, asked whether it could be more specific about the nature of that obligation and the way it differed from what was stated in the Convention. As long as there was no clear policy about compulsory education, there was a risk that girls would suffer discrimination.

32. He would welcome more examples relating to article 3 of the Convention because the purpose of that article was not only to deal with the problems of the child in a divorced-parents situation, but to cover all decisions affecting the child.

33. Mrs. EUFEMIO said that, according to one of the documents before the Committee, many women delivered their children at home and might therefore find it more difficult to register the birth of a child. Under the Family Code, the child must be registered within 45 days. However, there was a limit of one year within which the child could still be registered. In other words, some time might elapse before the child had a birth certificate. She would like to know whether there was any requirement that the child had to be registered before it could receive medical attention or other services. She also thought that such a situation might affect census results.

34. Mrs. KARP said that she would welcome more information on how the Family Code determined the dividing line between the rights of parents and the rights of children within the family. She would also like to know whether that Code provided protection to children who were victims of neglect and abuse in the family and to children who were in conflict with the law.

35. Mr. MOMBESHORA said that, in Africa, a child's views were sought after it had reached a certain age. With regard to the question of labour, the interpretation given in the Convention differed slightly from the context of African culture, in which labour was sometimes regarded as a form of training.

36. Mrs. MBENGUE (Senegal) said that, if there were differences between the Convention and Senegalese law, the provisions of the Convention could be taken into account by a judge. The problem was to ensure that the Senegalese population as a whole knew about the Convention so that the people and particularly women and children were familiar with the rights they enjoyed under that instrument. The same applied to the Beijing Platform for Action, which her Government had adopted. In their sermons and personal contacts, religious leaders made the local community aware of the Convention. They were a positive force with respect to some obligations that were to be found in the Convention and also with regard to Senegalese law.

37. As far as the obligation to educate children was concerned, the right to receive education was guaranteed under the Constitution. The Government had specified that primary education was a basic right and that the disparity between the sexes must be eliminated. Machinery to increase school enrolment for children between 7 and 12 years of age was to be set in motion in order to generalize access to primary education. In that connection, she said that primary education was free in Senegal. That was of great importance because many poor families would otherwise be unable to send their children to school.

38. Mrs. NGOM (Senegal) said that the child of a Senegalese woman married to a foreigner could acquire Senegalese nationality. In the case of a woman who retained her nationality, there was no problem and the child would automatically be given her nationality. However, if she renounced her nationality, the child could still obtain her nationality because, under the Nationality Code, children born of a Senegalese parent would automatically have Senegalese nationality. Senegalese law did not recognize dual nationality and, at some point, the child would have to choose between the mother's nationality and that of the father.

39. Referring to the registration of births, she said that registration by the village head would be valid only if the registration document was brought to the civil officer who would include it in the register of births, marriages and deaths. The late registration of births occurred frequently in Senegal and there was a set of measures that enabled communities in remote areas to have the birth of children legally declared and registered.

40. Children who were victims of neglect and in conflict with the law benefited from special measures and legal provisions. There were also practical measures available to them through services such as the Department of Education and Re-education Centres. The Senegalese State thus tried to ensure that a child was not simply locked away.

41. Replying to a question by the Chairperson, she said that the only problem that might arise if a child of minimum age entered into a labour contract was that the person with parental authority would have to be present and to help

the child, who did not have the authority to enter into contracts by himself. With respect to adoption, a child aged 15 or over could not be adopted unless he had first been consulted.

42. Mrs. MBENGUE (Senegal) said that registration centres at the rural community level made it possible to decentralize the authority of the Head of State to the lowest level. Births were registered in those centres and birth certificates could be issued for babies born within that jurisdiction. Children who had no documents could also be registered and attend school. Intensive programmes had been introduced in order to help women in rural areas so that their daughters could remain in school and not have to stay at home to work. The Head of State had also created the Prize of the President of the Republic, to be awarded to those schools which had enrolled the largest number of girls.

43. Mr. HAMMARBERG said that the principle of the best interests of the child, as set out in article 3 of the Convention, was both broader and deeper than the issue of custody in divorce cases. That notion - a cornerstone of the Convention - meant that, when conflicts of interest arose, the best interests of the child should be the primary consideration. In the legal, judicial and administrative spheres, such an approach called for the creation of a new set of decision-making procedures. UNICEF was, for instance, exploring the use of "child-impact analyses", which would assess the effect of a decision on a child before that decision had been taken. Senegal should describe the efforts it was making to integrate that key principle into its policy relating to children.

44. Mrs. SANTOS PAIS said that, in its consideration of the remaining sections of the list of issues, Senegal should bear in mind the crucial importance of the notion of the best interests of the child, which could guide efforts to find the ideal solution and also set limits on the actions of parents, as well as of community, State and religious authorities, vis-à-vis children.

45. The CHAIRPERSON invited the Committee to take up the sections of the list of issues entitled "Civil rights and freedoms", and "Family environment and alternative care", which read:

"Civil rights and freedoms
(Arts. 7, 8, 13-17 and 37 (a) of the Convention)

21. Please provide information on the way the fundamental freedoms recognized by the Convention are enjoyed by children and on the possible difficulties encountered in their implementation.

22. Please provide information on the way birth registration is ensured in rural areas. What efforts have been made to sensitize public opinion to the need to register births as well as to train adequate registry personnel?

23. In the light of the information provided in paragraph 73 of the report, please indicate the further measures which have been adopted to

prevent and investigate cases of the physical or mental ill-treatment of children. Are procedures available for children to complain about such abuse?

24. Please indicate whether corporal punishment is allowed in schools and institutions for children and whether any measures have been adopted to sensitize and educate personnel working in schools and institutions about the issues of child neglect, abuse or ill-treatment.

Family environment and alternative care
(Arts. 5, 18, paras. 1 and 2, 9, 10, 27, para. 4, 20, 21, 11, 19, 39 and 25 of the Convention)

25. Please provide further information on the way articles 9 and 10 of the Convention are implemented, including in relation to the way personal relations and direct contacts are maintained on a regular basis between the child and his or her parents in the case of their separation.

26. With reference to the information provided in paragraphs 49 to 52 of the report and in the light of the provisions of article 11 of the Convention, please indicate whether any measure has been adopted with a view to combating the illicit transfer and non-return of children.

27. Please provide information on the measures taken to enforce parental responsibility for the maintenance of the child, especially when one of the parents is not living with the child.

28. Please indicate whether any measures have been adopted to prevent and combat the abandonment of children.

29. Please indicate the measures adopted or envisaged to ensure the implementation of a legal framework for the effective protection of children in cases of intercountry adoption, as set forth in article 21 of the Convention."

46. Mrs. SANTOS PAIS said that, although the absence of a birth certificate apparently did not impede access to social services or prevent school enrolment, birth registration was essential for a broader reason: it was impossible to develop a strategy for the protection of the rights of children or to evaluate its progress if that population could not be defined. For example, article 28 of the Convention provided for compulsory primary education but, if a child's age was unknown, how could he be kept in school until a certain age? How could early marriage be prevented or the rights of a child accused of a crime be protected?

47. Although Senegalese children often entered the workforce at a young age, they were banned from participating in organizations designed to defend the rights of workers. Measures should be taken to protect children which did not simultaneously deprive them of their basic rights.

48. Miss MASON said that, since a set of social and cultural realities prevented the full realization in Senegal of the rights guaranteed by the

Convention, the Senegalese delegation should identify those parts of that instrument which, in its view, the people of Senegal, children included, were the hardest put to accept.

49. Mrs. EUFEMIO, referring to the implications that the widespread persistence of polygamy might have for family life in Senegal, said that article 18 of the Convention stipulated that both parents should have common responsibility for the upbringing and development of the child. And yet, in Senegal the father was the head of the family. It seemed that a Senegalese wife could question a decision made by her husband only before a court. Was there no everyday means by which couples could take decisions in common? Mutual decision-making meant less conflict and was therefore inherently more beneficial to children. For the sake of Senegal's children, she hoped that women in Senegalese society would in future enjoy equality with men.

50. Mrs. SANTOS PAIS said that Senegal should describe the civil and penal measures taken by the Government to protect children from violence. In particular, was an independent authority empowered to investigate complaints of abuse against children? Furthermore, it seemed that corporal punishment within the family was prohibited and, yet, an individual responsible for the care and protection of a child had a "natural right and duty" to bring him up: clarification should be provided on the meaning of that phrase. What was admissible, what was prohibited and who was empowered to interpret those standards? It would be useful to know whether Senegal envisaged incorporating into law a prohibition against all forms of disciplinary mistreatment.

51. No agreements had been concluded between Senegal and other countries in connection with the illicit transfer and non-return of children, but many Senegalese were married to non-Senegalese. Was Senegal planning to conclude such agreements? If not, what was its rationale for failing to so do? Furthermore, in Senegal, under the system of "full adoption", the adopted child became a full-fledged member of his new family and assumed the family name. But did he enjoy the right to seek information about his biological family? How was article 7 reflected in Senegalese law?

52. Miss MASON said she regretted that there were so many gaps in the report of Senegal. It had provided information on article 5, but it had neglected to discuss articles 9, 10 or 18. What was the size of the average Senegalese family? Paragraph 32 of the report stated that the Government of Senegal operated a highly progressive social security system. Government allowances were, however, never sufficient to meet the needs of families. Senegal should describe any further measures it was taking to ensure a minimum standard of living for families, such as increased employment opportunities. Did Senegal have a national minimum wage?

53. Foster care in Senegal apparently constituted an arrangement between birth parents and foster parents, formalized before a judge. Had Senegal considered the creation of a foster-care system in which a cadre of persons provided care for children to whom they had no ties?

54. Mrs. BADRAN said the report indicated that a father who had refused to meet his child maintenance obligations was subject to punishment under the

Penal Code; the question arose whether it fell to the mother to bring action against him. A poor woman would be able to bring her case before a court only with great difficulty. What programmes, if any, had been undertaken to enable such women to secure child support?

55. Although polygamy was recognized in the teachings of the Muslim religion, it gave rise to a number of unfortunate consequences, including an adverse psychological effect on children and a high birth rate. Various countries had therefore taken measures to combat that practice. Tunisia had reinterpreted the Koran, by reassembling its parts, to indicate that polygamy was unacceptable. Other countries had adopted civil measures, such as according a wife whose husband took a second wife the right to an immediate divorce. Senegal should describe what efforts, if any, it was taking to combat polygamy.

56. Mr. HAMMARBERG said that the report of Senegal suggested that a pregnant unmarried woman might experience difficulties in asserting her rights. It should be remembered that, when conflicts arose from such proceedings, it was often the child who suffered. Senegal should spell out its procedure for the establishment of paternity.

The meeting was suspended at 5 p.m. and resumed at 5.20 p.m.

57. Mrs. MBENGUE (Senegal), replying to the concerns raised by Mrs. Santos Pais, said that a television and radio campaign was currently under way in Senegal to encourage parents to regularize the civil status of their children. Workers, however, needed no encouragement to register their children because, if they could produce no legal document attesting to their parenthood, they were not entitled to family services. In rural areas, many parents failed to appreciate the need to register their children; they tended instead to calculate their children's ages from the date of some memorable incident, such as a natural disaster.

58. Miss Mason had asked about the difficulties experienced by Senegal in applying the Convention. A number of problems had already been mentioned, such as the structural adjustment programmes that acted as a drain on budgetary resources. Senegal was doing everything it could to implement the provisions of article 24 of the Convention on health-care services through such efforts as sectoral programmes to ensure child survival and protection, but those efforts were hampered by a number of factors common to poorer countries.

59. On the question of what the Government was doing to promote the employment of the breadwinner in the event that social security payments did not meet the needs of poor families, she said that it had set the objective of providing 20,000 jobs a year through labour-intensive and seasonal projects, inter alia. The informal sector was highly developed and certain loan programmes were specifically designed for workers in that sector. There was a major programme to meet the needs of poorer families in the outskirts of cities and in isolated rural areas. Every year, the national women's committee organized a fund-raising campaign to help finance programmes for impoverished families and children.

60. A question had been asked about legal assistance to women who were unable to pay lawyer's fees. Such assistance was furnished by non-governmental organizations, a national group for the defence of impoverished women and the association of women lawyers.

61. Mrs. NGOM (Senegal), referring to the question on how the Senegalese authorities ensured that a child's interests were taken into account in all decisions affecting him or her, she said such arrangements had already been described in connection with divorce and adoption. Provision was likewise made for investigations by trained social workers into the child's family environment and psychological development for the purpose of providing maximum insight to the authorities called upon to take any type of decision affecting a child.

62. The absence of birth certificates was really the exception rather than the rule. Under Senegalese law, it was compulsory to declare the birth of a child; article 51 of the Family Code was explicit on that point. Thanks to the growing coordination among local authorities, children were being covered increasingly well by the bureaucratic services of Senegalese society.

63. A number of questions had been asked about polygamy. It was true that that practice was authorized under Senegalese law, but it was also restricted. A maximum of four wives was allowed to each husband and the number of wives chosen by the husband at the time of marriage could not vary thereafter. By incorporating such restrictions, the lawmakers had actually been trying to promote monogamy. In addition, a compromise had had to be struck between Muslim law and positive law. The impact of polygamy on a child's upbringing naturally differed from that of monogamy, but there were mechanisms to ensure that all children of polygamous marriages were treated equally and had the same rights. Parental authority in polygamous marriages was borne primarily by the husband, but the wife also had rights and responsibilities in the care and guidance of the children. If she felt the husband's decisions in matters affecting the child were not in the child's best interests, she had the obligation to so inform a matrimonial causes judge. In the event of divorce and the awarding of child custody to the father, the mother might be required to make child maintenance payments, if such measures were within her means.

64. Replying to the question whether an adopted child could have contact with his or her biological parents, she said that such contacts were by no means prohibited, but the intention of the legislation was to keep them to a minimum in order to protect the child's emotional equilibrium. An adoptive family was seen as replacing the biological parents in every way and as providing an appropriate family environment in which the child could become fully integrated and feel secure. Adopted children could use the family names either of their biological parents or of their adoptive families.

65. The average number of children borne by Senegalese women was six. Children of workers were entitled to social security benefits, although a social safety net ensured that the needs of children in families where the breadwinner was unemployed were met as well. Responsibility for child maintenance payments was borne primarily by the father, as a corollary of his exercising primary parental authority; if a father defaulted on such payments, he could be subjected to either civil or criminal proceedings. An action

for payment of child maintenance could be brought to court without the intervention of a lawyer; the social services provided assistance in securing a court injunction by which such payments would be subtracted from a father's earnings, even if he worked in the informal sector.

66. While investigations to determine a mother's identity were legal, similar efforts to establish paternity were prohibited. A father's acknowledgement of paternity could be secured, but only on a voluntary basis. A child born out of wedlock received only half of the inheritance entitlements of a legitimate child. That, of course, was a form of discrimination. Nevertheless, the tendency in Senegalese legislation was towards the full implementation of the Convention as positive law.

67. Corporal punishment was not prohibited, for Senegalese society took the view that, if education was to be successful, punitive measures must be permitted. Unduly harsh corporal punishment was prohibited, however, and the legislation on assault and battery provided that it was an aggravating factor when such treatment was inflicted on a minor by his parents or guardians. As to whether any administrative entity had the right to carry out investigations of child abuse, she said that certain Government departments had not only the right, but the duty to do so. There was extensive jurisprudence of cases where parents had been brought to trial for the ill-treatment of children.

68. On the transfer and return of children, she noted that there were many couples of mixed nationality in Senegal; steps were taken to ensure that, in the event of separation or divorce, parental visiting rights were respected. Senegal had signed bilateral agreements with France and other members of the European Union on that subject and was considering acceding to the 1993 Hague Convention on Protection of Children and Cooperation in respect of Intercountry Adoption.

69. The CHAIRPERSON said the Committee had noted that the Convention took precedence over internal law, but it did not consider that that was a sufficient guarantee of the Convention's full implementation. It would therefore urge the Senegalese Government to amend any laws that conflicted with that instrument.

70. The Senegalese authorities had ample openings for dialogue with religious communities and should use those opportunities to good effect. The influence of Muslim teachings on lawmaking was well known; in Tunisia, where the Muslim faith was virtually the sole religion, the Government had discussed the problem of polygamy with the religious authorities and had resolved it on the basis of a particular interpretation of the Koran. That interpretation ensured a more liberal approach to the question of equality between men and women and more equitable treatment of children born in and out of wedlock.

71. Miss MASON, referring to paragraphs 76 to 84 of the report, asked about the frequency of cases of adoption in Senegal. Full adoption was described as being possible by an unmarried person over the age of 35 and the age difference between that person and the adopted child had to be at least 15 years. She asked for the rationale behind that compulsory age disparity.

72. Mrs. SANTOS PAIS said that she welcomed the abundant information given on the structure of the family in Senegal. The Convention did not exclude any particular family structure, not even polygamy. What it did do, however, was stipulate that, whatever the structure chosen, the child's interests must be respected and protected. The child must be brought up by his parents where possible and have direct personal contact with both parents; parental authority must be exercised jointly by both parents; no child should be discriminated against on grounds of his birth or the civil status of the parents.

73. The Committee recognized the existence of traditional attitudes and practices, but firmly believed that those that went against the interests of the child should be abolished. The belief that to spare the rod was to spoil the child was one such attitude: it was preferable to provide guidance than to inflict corporal punishment.

74. Life imprisonment of a parent convicted of child abuse could be counterproductive because it made the impact of abuse even more painful by depriving a child of the emotional support of a parent. That was a difficult issue that perhaps should be reflected on further. The fact that children were not entitled to lodge complaints of abuse was a serious cause of concern, since the child must be treated as a full-fledged subject of law and given the necessary means of defending himself against abuse.

The meeting rose at 6 p.m.